



Award No. 15705
Docket No. TE-15489

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Claude S. Woody, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the St. Louis Southwestern Railway, that:

1. Carrier violated the Agreement between the parties when it improperly relieved H. R. Hardison, Agent-Telegrapher, Plano, Texas, for his vacation beginning July 8, 1963.
2. Carrier shall compensate H. R. Hardison in the amount of eight hours at the time and one-half rate for 13 consecutive work days beginning July 8, 1963.
3. Carrier shall further compensate H. R. Hardison in the amount of eight hours at the straight time rate for 13 consecutive work days beginning July 8, 1963.

EMPLOYEES' STATEMENT OF FACTS: The Agreement between the parties effective December 1, 1934, as amended and supplemented, is available to your Board, and by this reference is made a part hereof. The instant dispute is primarily based on the National Vacation Agreement of December 17, 1941, as amended.

Article 1 of the Vacation Agreement provides that employees will be granted an annual vacation of a specified number of consecutive workdays, with pay, the number of days based on length of service and other considerations not here in dispute.

Article 4 provides for assigning employees to vacation dates according to preference in seniority order consistent with the requirements of service. The provisions of this Article are not here in dispute.

Article 5 of the Vacation Agreement reads:

"5. Each employee who is entitled to vacation shall take same at the time assigned, and while it is intended that the vacation date

Tyler. The telegram was received in the Tyler relay office at 6:17 P.M., July 3, 1963, as shown by Exhibit 1, which is photostat of the original received by Auditor Freight Accounts Hill. The telegram was relayed to all addressed with the exception of Plano. The Superintendent of Communications advised his investigation indicated the messenger in the relay office failed to ditto a copy to be sent to Plano.

Claimant did not work July 4, account observing holiday; however, he worked his full tour of duty Friday, July 5, without making any effort to determine if he was to be relieved for his vacation.

Monday, July 8, Claimant alleged that he showed up for work and found Extra Telegrapher Tull there to relieve him. He filed time claim July 8 for 8 hours' pay at the straight time rate and 8 hours' pay at the time and one-half rate, with the following explanation on time slip: (Exhibit 2.)

"Reported for duty. A Relief Agent reported too with message to report protect my position, relieving me for my vacation. I failed to receive the message, nor was I notified in any other manner."

July 26, 1963, General Superintendent Holden denied the claim.

The General Chairman, upon handling the matter, presented claim for eight hours at the straight time rate for 13 days beginning July 8, 1963, and for eight hours at the time and one-half rate for 13 days beginning July 8, 1963, alleging Claimant was improperly relieved for his vacation.

The claim was denied.

Exhibits 1 and 2 are attached hereto and made a part hereof.

The applicable schedule agreement is that with The Order of Railroad Telegraphers effective December 1, 1934, as amended by Supplemental Agreement covering 40 Hour Week effective September 1, 1949, as well as the Vacation Agreements of December 17, 1941 and August 21, 1954, copies of which are on file with the Board.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts of this case are not distinguishable from the facts in Award No. 15704. Accordingly, the Claim will be sustained to compensate Claimant only for the day on which he actually reported for duty.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That Carrier violated the Agreement.

AWARD

Claim sustained for eight hours' vacation allowance and eight hours at the time and one-half rate, less the amount of compensation already paid.

Balance of the Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1967.